

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JOSEPH DEANGELIS, et al.,

Plaintiffs,

- against -

JON S. CORZINE, et al.,

Defendants.
-----X

U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

- against -

MF GLOBAL HOLDINGS LTD., JON S.
CORZINE, and EDITH O'BRIEN,

Defendants.
-----X

VICTOR MARRERO, United States District Judge.

On June 27, 2013, the U.S. Commodity Futures Trading Commission ("CFTC") filed a complaint against defendants MF Global Holdings, Ltd., Jon S. Corzine ("Corzine"), and Edith O'Brien ("O'Brien"). (U.S. Commodity Futures Trading Commission v. MF Global Inc. et al., No. 13 Civ. 4463 (S.D.N.Y.), Dkt. No. 1.)¹ On July 12, 2013, the Court consolidated that action with other related actions proceeding under this docket. (Dkt. No. 513.)

¹ The complaint also named MF Global Inc. as a defendant. On November 8, 2013, the Court signed a final consent order that settled the CFTC's claims against MF Global Inc. (Dkt. No. 571.)

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ORDER

Corzine and O'Brien moved to dismiss the CFTC's complaint. (Dkt. Nos. 532, 535.) The Court subsequently held a telephone conference with the parties to review the pleading deficiencies these motions asserted as grounds for dismissal. The Court then presented the CFTC with an option to respond to the motions or to file an amended complaint. On December 6, 2013, the CFTC submitted an amended complaint (the "Amended Complaint"). (Dkt. No. 587.) At another telephone conference the Court held with the parties to review the extent to which the CFTC's modified pleadings addressed the defendants' objections, Corzine and O'Brien indicated their intent to move to dismiss the Amended Complaint. The Court directed Corzine and O'Brien to submit three-page letters to supplement their previously filed motions to dismiss. Both defendants submitted their letters on January 7, 2014. (Dkt. Nos. 619, 620.)

After review of all the papers filed in this action, the Court is persuaded that the motions to dismiss are without merit. At this stage, "dismissal is improper as long as the complaint furnishes adequate notice of the basis of the plaintiff's claim and relief could be granted under [some] set of facts consistent with the allegations." In re MF Global Holdings Ltd. Sec. Litig., --- F. Supp. 2d

---, No. 11 Civ. 7866, 2013 WL 5996426, at *14 (S.D.N.Y. Nov. 12, 2013) (alteration in original) (citation and internal quotation marks omitted). The facts alleged in the 105-paragraph Amended Complaint provide Corzine and O'Brien more than ample notice of the nature of the CFTC's claims against them and give rise to reasonable inferences that Corzine and O'Brien violated the Commodity Exchange Act by illegally transferring funds from customer segregated accounts, as charged in Counts One and Four of the complaint.

The motions to dismiss essentially urge the Court not to draw those inferences. But at this stage of the proceedings, the Court must accept the pleadings as true, and draw any reasonable inferences and resolve any ambiguities in favor of the opponent of a motion to dismiss. See Chambers v. Time Warner, Inc., 282 F.3d 147, 152 (2d Cir. 2002). The arguments Corzine and O'Brien raise would be more properly addressed either on a motion for summary judgment or to a factfinder at trial, after a fuller record is developed during discovery.

Accordingly, it is hereby

ORDERED that the motion (Dkt. No. 535) of Defendant Jon S. Corzine to Dismiss Counts I and IV of the Complaint is **DENIED**; and it is further

ORDERED that the motion (Dkt. No. 532) of Defendant Edith O'Brien to Dismiss the Complaint is **DENIED**.

SO ORDERED.

Dated: NEW YORK, NEW YORK
17 January 2014

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Victor Marrero
U.S.D.J.